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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/827,431	04/06/2001	Imaddin Othman Albazz	CA920000034US1	6091
25259	7590	06/05/2009		
IBM CORPORATION 3039 CORNWALLIS RD. DEPT. T81 / B503, PO BOX 12195 RESEARCH TRIANGLE PARK, NC 27709			EXAMINER ELISCA, PIERRE E	
			ART UNIT 3621	PAPER NUMBER
			NOTIFICATION DATE 06/05/2009	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte*: IMADDIN OTHMAN ALBAZZ and LEV MIRLAS

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Application No. 09/827,431  
Technology Center 3600

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Mailed: June 5, 2009

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Before KRISTA ZELE *Deputy Chief Appeals Administrator*  
ZELE, *Deputy Chief Appeals Administrator*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on May 13, 2009. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter requiring attention.

EXAMINER'S ANSWER: GROUNDS OF REJECTION

A review of the file finds that the grounds of rejection of the claims as provided in the Examiner's Answer, mailed February 5, 2009, under the heading "Grounds of Rejection", is not consistent with the grounds of rejection of claims set forth in the last Office Action of record. The grounds of rejection of the claims as provided in the Examiner's Answer must be consistent with the last Office Action of record, including any Advisory Action responsive to any after final submissions. *See also Manual of Patent Examining Procedure* (MPEP) § 1207.02 and 1207.03 (8<sup>th</sup> ed. Rev. 6, Sept 2007) for details.

Specifically, the Examiner's Answer sets forth a rejection of claims 1, 4-14, 16, 20-27 and 29-35 as being rejected under 35 U.S.C. 102(b) because of anticipation by *Shirley* (U.S. Patent 5,692,206); whereas the last Office Action, the Final Rejection mailed July 11, 2008, finds that claims 1-14, 16, 20-27 and 29-35 are rejected under 35 U.S.C. 102(b) as being anticipated by *Shirley*.

Clarification of the status of claims 2 and 3 is required.

CONCLUSION

Accordingly, it is ORDERED that the application is returned to the Examiner to:

- (1) vacate the Examiner's Answer mailed February 5, 2009;
  - (2) generate a new Examiner's Answer setting forth the correct Grounds of Rejection and to correct other sections of the Answer as may be required;
- and

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(3) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

KZ/BIM

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